

**BOARD OF ENVIRONMENTAL PROTECTION**  
**Meeting Minutes**

October 25, 2007

A meeting of the Board of Environmental Protection was held on Thursday, October 25, 2007 at the Holiday Inn / Ground Round, Augusta, Maine. Virginia Plummer, Chair, called the meeting to order at 9:00 a.m. with the following individuals present:

**Board:** M. Wing Goodale, Richard Gould, Don Guimond, Ernest Hilton, Sue Lessard, Virginia Plummer, Matt Scott, and Nancy Ziegler

Absent: Nancy Anderson, Elizabeth Ehrenfeld (Note: Ms. Anderson and Ms. Ehrenfeld are not participating in the Downeast proceeding.)

<b><u>Staff:</u></b>	Bureau of Land and Water Quality	James Cassida
	Bureau of Land and Water Quality	Jennifer Cayer

**Others:** Deb Garrett, Deputy Commissioner  
Cindy Bertocci, BEP Executive Analyst  
Peggy Bensinger, Assistant Attorney General  
Terry Hanson, Administrative Assistant

***(Meeting adjourned at approximately 4:00 p.m.)***

**I. DEPARTMENTAL**

- A. COMMISSIONER'S COMMENTS: NONE**
- B. COMMENTS FROM THE BEP CHAIR: None**
- C. EXECUTIVE ANALYST COMMENTS: None**
- D. BOARD CALENDAR: Reviewed**
- E. DEPARTMENTAL ORDERS: None**
- F. EXECUTIVE SESSION: None**

**II. CONSENT AGENDA ITEMS -- None**

**III. Regular Agenda**

1. DOWNEAST LNG, DOWNEAST PIPELINE // ROBBINSTON Site Location of Development L-23432-26-A-N, Natural Resources Protection Act L-23432-TG-B-N, Air Emissions A-000960-71-A-N, Section 401 Water Quality Certification and Coastal Zone Management Act (Appeal of 7<sup>th</sup> Procedural Order)  
Staff: Cynthia S. Bertocci, BEP Executive Analyst

The Board voted (8-0-0-2) on a motion to deny the appeal submitted by Downeast LNG with respect to Downeast's request to strike from the record certain materials submitted by Jessie Davies, Dr. Leigh Smith, Dr. Robin Hadlock Seeley, Dr. Thomas Trott, Quoddy Link Marine, Dr. Lesley Pinder, Mary Myers, Janice Harvey, Brian Flynn, Alan Brooks, Fred Hartman, Janice Meiners, and Jon Bragdon, and affirm the Seventh Procedural Order with respect to these submissions. The Board voted pursuant to 38 M.R.S.A. Section 341-D(2), and 06-096 CMR Chapter 30, Special Rules for Hearings on Applications of Significant Public Interest.

*Board members M. Wing Goodale, Richard Gould, Don Guimond, Ernest Hilton, Sue Lessard, Virginia Plummer, Matt Scott, Nancy Ziegler voted to support the motion. Board members Nancy Anderson and Elizabeth Ehrenfeld were absent. (Note: Ms. Anderson and Ms. Ehrenfeld are not participating in the Downeast proceeding.)*

The Board voted (2-6-0-2-) on a motion to grant the appeal of the Seventh procedural order submitted by Downeast LNG with respect to Downeast's request to strike from the record the draft report submitted by Art MacKay entitled "Identification of Ecologically and Biologically Significant Areas in the Bay of Fundy, Gulf of Maine" (Buzeta & Singh July 9, 2007). Motion Failed.

*Board members Sue Lessard and Nancy Ziegler voted to support the motion. Board members M. Wing Goodale, Richard Gould, Don Guimond, Ernest Hilton, Virginia Plummer, and Matt Scott voted opposed. Board members Nancy Anderson and Elizabeth Ehrenfeld were absent. (Note: Ms. Anderson and Ms. Ehrenfeld are not participating in the Downeast proceeding.)*

1. DOWNEAST LNG, DOWNEAST PIPELINE // ROBBINSTON Site Location of Development L-23432-26-A-N, Natural Resources Protection Act L-23432-TG-B-N, Air Emissions A-000960-71-A-N, Section 401 Water Quality Certification and Coastal Zone Management Act (Appeal of 7<sup>th</sup> Procedural Order) -- Continued

The Board voted (6-2-0-2) on a motion to deny the appeal of the Seventh Procedural Order submitted by Downeast LNG with respect to Downeast's request to strike from the record the following documents submitted by Art MacKay: draft report entitled "Identification of Ecologically and Biologically Significant Areas in the Bay of Fundy, Gulf of Maine" (*Buzeta & Singh July 9, 2007*) and the book entitled "Marine and Coastal Systems of the Quoddy Region, New Brunswick" edited by Martin L. H. Thomas, Department of Fisheries and Oceans, Ottawa 1983, and affirm the ruling in the Seventh Procedural Order with respect to these submissions.

*Board members M. Wing Goodale, Richard Gould, Don Guimond, Ernest Hilton, Virginia Plummer, and Matt Scott voted to support the motion. Board members Sue Lessard and Nancy Ziegler voted opposed. Board members Nancy Anderson and Elizabeth Ehrenfeld were absent. (Note: Ms. Anderson and Ms. Ehrenfeld are not participating in the Downeast proceeding.)*

2. DOWNEAST LNG, DOWNEAST PIPELINE // ROBBINSTON Site Location of Development L-23432-26-A-N, Natural Resources Protection Act L-23432-TG-B-N, Air Emissions A-000960-71-A-N, Section 401 Water Quality Certification and Coastal Zone Management Act (Notice of Application Withdrawal / TRI – Administrative Standing)

Staff: Cynthia S. Bertocci, BEP Executive Analyst  
Staff: Jennifer Cayer, Bureau of Land and Water Quality  
Staff: James Cassida, Bureau of Land and Water Quality

The Board voted (5-3-0-2) on a motion to deny the withdrawal of the applications, to suspend processing of the applications until on or before July 1, 2008 to allow the submission of an amendment to the applications regarding a new send-out pipeline route, and to request that the applicant take the necessary procedural steps to extend the time frame for the State to process the request for a CZMA consistency determination and Section 401 Water Quality Certification. The Board voted pursuant to 38 M.R.S.A. Section 341–D(2), 06-096 CMR Chapter 2, Rules Concerning the Processing of Licenses and Other Administrative Matters, and 06-096 CMR Chapter 30, Special Rules for Hearings on Applications of Significant Public Interest.

*Board members Ernest Hilton, M. Wing Goodale, Matt Scott, Virginia Plummer, and Nancy Ziegler voted to support the motion. Board members Richard Gould, Don Guimond and Susan Lessard voted opposed. Board members Nancy Anderson and Elizabeth Ehrenfeld were absent. (Note: Ms. Anderson and Ms. Ehrenfeld are not participating in the Downeast proceeding.)*